IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.MC.No. 2670 of 2007()

CC.55/2007 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD
CRIME NO.11/2007 OF TOWN SOUTH POLICE STATION, PALAKKAD

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PETITIONERS/ACCUSED NO.2 TO 8, 10 TO 14 AND 16:

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1. SABU, S/O.SETHUMADHAVAN,
PUTHEN VEEDU, THAMARAKKULAM,
VADAKKANTHARA, PALAKKAD TALUK.

2. SMITHESH, S/O.PRABHAKARAN,
MELEPPATTU, SEKHARIPURAM, PALAKKAD TALUK.

[NAME OF THE 3RD PETITIONER WRONGLY TYPED
IN THE ORDER AS SABU]

3. BABU.K, S/O.SANKARANARAYANAN,
CHITRA NIVAS, AISWARYA NAGAR, NOORANI P.O., PALAKKAD.

4. B.MANOJ, S/O.BHASKARAN, GEETANJALI,
MANNARKKAD, PALAKKAD.

5. KRISHNAKUMAR, S/O.KRISHNANUNNI,
PUTANVEEDU, THORAPALAYAM,
KALPATHI, PALAKKAD.

6. RAMESH.V, S/O.VASU,
PULIYANTHONI HOUSE, MUTHALAMADA P.O.,
KOLLENGODE, PALAKKAD.

7. M.SASIKUMAR, S/O.MANICKAN,
8/676 AYYAPURAM, KALPATHI, PALAKKAD.

8. PRABHAKARAN, S/O.GOPALAN,
MANNATHU HOUSE, KOMBAMKUZHI
KOPPAM, PALAKKAD.

9. N.SHANMUGHAN, S/O.NATARAJAN,
PARA ROAD, KANJIKODE, PALAKKAD.

10. B.BABY, S/O.VELAYUDHAN,
SANKAR NIVAS, KADAKKAMTHARA, PALAKKAD.

11. SURESH, S/O.KRISHNAN,
MUCKANATHPARAMB, THOTTINGAL,
YAKKARA, PALAKKAD.

12. GURUVAYOORAPPAN,
S/O.PECHIYAPPAN,
23/404 THIRUNELLAYIPALAYAM, PALAKKAD.

13. K.C.SURESH, S/O.CHANDRAN,
KUNNATHVEEDU, PANNIYAMPADAM,
MUTTIKULANGARA, PALAKKAD.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE SI OF POLICE,
TOWN SOUTH POLICE STATION, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2670 of 2007

Dated this the 21st day of August 2007

O R D E R

The petitioners are some of the accused in a prosecution initiated inter alia under Section 332 read with 149 I.P.C. Consequent to the failure/omission of the petitioners to appear before the learned Magistrate on 8/8/2007, non-bailable warrants of arrest have been issued against the petitioners.

2. According to the petitioners, they are absolutely innocent. Their omission/failure to appear was not wilful or intentional. According to the petitioners, on the date of posting, there was a call for Hadthal and that is why they could not appear before the learned Magistrate. The petitioners are now willing to appear before the learned Magistrate and co-operate with the learned Magistrate for the prompt and early disposal of the case. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 438 and/or 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned

Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, I am satisfied that there can be a direction that the non-bailable warrants issued against the petitioners shall not be executed till 7/9/2007. The petitioners shall appear before the learned Magistrate and seek regular bail before that date.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007